



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2012-0988; FRL-9904-36-Region-5]

**Approval and Promulgation of Air Quality Implementation Plans;
Indiana; Indiana State Board Requirements**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to its authority under the Clean Air Act (CAA), EPA is taking final action to approve state implementation plan (SIP) submissions made by the Indiana Department of Environmental Management (IDEM) intended to meet the state board requirements under section 128 of the CAA. The proposed rule associated with this final action was published on August 19, 2013.

DATES: This final rule is effective on [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2012-0988. All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-

available only in hard copy. Publicly-available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang at (312) 886-0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, chang.andy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What action is EPA taking?
- III. Statutory and Executive Order Reviews.

I. What is the background for this action?

Under section 128 of the CAA, each SIP must contain provisions that address two requirements: (i) that any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent

the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. To comply with this statutory provision, Indiana submitted the following rules for incorporation into the SIP: IC 13-13-8-1, IC 13-13-8-2(a), IC 13-13-8-2(b), IC 13-13-8-3, IC 13-13-8-4, and IC 13-13-8-11. EPA's August 19, 2013, proposed rulemaking (see 78 FR 50360 at 50366) details how these rules satisfy the applicable requirements of section 128. EPA did not receive any comments regarding its proposal to approve Indiana's state board provisions.

II. What action is EPA taking?

For the reasons discussed in our August 19, 2013, proposed rulemaking, EPA is taking final action to approve IDEM's submissions addressing the state board requirements under section 128 of the CAA. The specific rules that we are approving as satisfying these requirements are IC 13-13-8-1, IC 13-13-8-2(a), IC 13-13-8-2(b)¹, IC 13-13-8-3, IC 13-13-8-4, and IC 13-13-8-11. It should be noted that our August 19, 2013, rulemaking contained proposed actions for various additional

¹ In EPA's August 19, 2013, proposed approval of Indiana's state board provisions, we incorrectly cited this rule as IC 13-18-8-2(b). We want to clarify that this final approval is consistent with Indiana's submission, specifically with respect to IC 13-13-8-2(b).

IDEM submissions, including those addressing the CAA section 110(a)(1) and (2) "infrastructure" SIP requirements for the 2008 ozone and 2008 lead national ambient air quality standards, as well as the prevention of significant deterioration of air quality provisions. This final rulemaking, however, is limited only to the state board requirements under section 128 of the CAA.

III. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements.

Dated: December 6, 2013.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770 the table in paragraph (c) is amended by adding a new heading entitled "State Statutes" and entry IC 13-13-8 at the end of the table to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
* * * * *				
State Statutes				
IC 13-13-8	Environmental Rules Board	1/1/2013	[INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	1, 2(a), 2(b), 3, 4, and 11 only

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